

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  QWEST CORPORATION	DOCKET NOS. TF-03-201 FCU-03-24
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**ORDER DOCKETING TARIFF AND COMPLAINT  
AND ORDERING FILING BE MADE**

(Issued July 11, 2003)

On June 13, 2003, Qwest Corporation (Qwest), filed proposed modifications to its Signaling System No. 7 (SS7) message charges in its Iowa intrastate access tariff. Qwest's SS7 message charges are currently in dispute in a complaint filing, which is discussed below. The proposed tariff has been identified by the Utilities Board (Board) as Docket No. TF-03-201.

On March 27, 2003, U.S. Cellular Corporation (USCC), Cox Iowa Telcom, L.L.C. (Cox), and Illuminet, Inc. (Illuminet), (collectively, Complainants) filed a formal complaint against Qwest. The Complainants state that on April 9, 2001, Qwest filed proposed amendments to its access tariff (TF-01-111) lowering its local switched access rate and adding additional rate elements for Common Channel Signaling, including SS7 signaling messages. The Complainants allege notice of the change was not provided at the time of its filing. TF-01-111 subsequently went into effect. The complaint has been identified as Docket No. FCU-03-24.

USCC and Cox both use Illuminet to transport their SS7 signaling messages to Qwest. Illuminet is a third-party non-common carrier provider of SS7 services to

over 900 telecommunications carriers across the country. Illuminet serves no end-users, it does not carry any end-user traffic of its own or of its carrier customers, and it does not initiate any of the intrastate SS7 signaling messages which are the subject of the complaint. Carriers such as USCC and Cox can either establish their own SS7 networks or use third-party SS7 providers, such as Illuminet.

According to the complaint, after the tariff change, Qwest began charging Illuminet for SS7 signaling messages that were generated by USCC and Cox, but were transported over Illuminet's SS7 network. Complainants argue this has had the effect of inappropriately charging USCC and Cox for SS7 call setup messages associated with non-access calls. The Complainants believe this is improper, because the terms of the interconnection agreements between USCC and Qwest and between Cox and Qwest, rather than the access tariff, should apply to the SS7 call setup messages associated with non-access traffic exchanged between the parties. The end result is an access charge on landline local traffic, intraMTA<sup>1</sup> (Major Trading Area) commercial mobile radio service traffic, Qwest originated toll and jointly provided access traffic, and other traffic for which no access charges should be charged to Illuminet, Cox, or USCC.

The Complainants ask the Board to docket the complaint to determine the lawfulness of Qwest's application of the rates in TF-01-111. The Complainants ask the Board to determine that since SS7 messaging is an integral component of end-

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<sup>1</sup> MTAs, or major trading areas, are wireless service territories, as defined by the Federal Communications Commission.

user traffic, the terms and conditions within the interconnection agreements should govern when and how SS7 messaging charges are assessed. Finally, the Complainants ask the Board to order refunds and credits of any monies paid to, or charged by, Qwest for SS7 messaging pursuant to TF-01-111.

On April 16, 2003, Qwest filed a "Response to Complaint" and a separate "Motion to Dismiss Request for Refund or Credit." Qwest denies that it did not give the Complainants notice at the time of the access tariff change. Qwest's position is that Illuminet is not a competitive local exchange carrier, therefore, Qwest is not required to charge Illuminet the same rates as competitive carriers receive pursuant to the terms of an interconnection agreement.

Qwest maintains the filed rate doctrine prevents a refund or credit of SS7 charges. Iowa Code § 476.5 states that "[n]o public utility subject to rate regulation shall directly or indirectly charge a greater or less compensation for its services than prescribed in its tariffs." Additionally, Iowa Code § 476.6(9) provides that "rates, charges, schedules, or regulations so approved [by the Board] are lawful and effective upon their approval." This doctrine prohibits contracts and tort claims that would result in different rates than those stated in the effective tariff. In this case, the filed rate doctrine prevents the Board from ordering Qwest to refund or credit the SS7 charges at issue. Additionally, Qwest argues a refund or credit would also violate the prohibition against retroactive ratemaking pursuant to Iowa Code § 476.3(3).

On April 30, 2003, USCC, Cox, and Illuminet filed a resistance to Qwest's motion to dismiss. They argue that the complaint is not about Qwest's SS7 tariff

rates, and the Complainants do not seek to set rates at different levels. Rather, the complaint asserts that the SS7 tariff has never been properly applied to the SS7 messages associated with end user traffic exchanged between Qwest and USCC and between Qwest and Cox.

On June 6, 2003, Qwest filed a motion asking the Board to defer ruling on its motion to dismiss and giving notice of an agreement and amendment between Qwest and Iowa Network Services, Inc.

It appears that the filing identified as TF-03-201 was made in response to the complaint identified as Docket No. FCU-03-24. Complainants have indicated they are currently in discussions with Qwest to work through the issues, but that it is unlikely that full agreement can be accomplished before the Board's deadline to docket the tariff filing. Therefore, the Board will docket the tariff filing to allow additional time for negotiations. The parties are directed to file a report by August 11, 2003, defining any outstanding issues remaining in both TF-03-201 and FCU-03-24, after which the Board will determine an appropriate course of action.

**IT IS THEREFORE ORDERED:**

1. The proposed tariff filed by Qwest Corporation June 13, 2003, identified as TF-03-201, is docketed for further review.
2. The complaint filed by U.S. Cellular Corporation, Cox Iowa Telcom, L.L.C., and Illuminet, Inc., on March 27, 2003, identified as Docket No. FCU-03-24, is docketed for further review.

3. The parties are directed to file a report by August 11, 2003, defining any outstanding issues remaining in Docket Nos. TF-03-201 and FCU-03-24.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Margaret Munson \_\_\_\_\_  
Executive Secretary, Deputy

Dated at Des Moines, Iowa, this 11th day of July, 2003.